

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

BOBBY FRANCIS LOWRY,

Petitioner,

v.

JAMES SALMONSEN,

Respondent.

CV-18-69-BU-BMM

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on December 3, 2018. (Doc. 4.) Judge Johnston granted Petitioner Bobby Francis Lowry’s motion to proceed in forma pauperis. (Doc. 4 at 1.) Judge Johnston recommended that Lowry’s petition for writ of habeas corpus be dismissed without prejudice. (Doc. 4 at 3.) Judge Johnston recommended that the Clerk of Court enter a judgment of dismissal. (Doc. 4 at 5.) Judge Johnston further recommended that a certificate of appealability be denied. (Doc. 4 at 5.)

Neither party filed objections. The Court reviews findings and recommendations not objected to for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000)

(citations omitted). The Court finds no error in Judge Johnston's Findings and Recommendations and adopts them in full.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 4) are ADOPTED IN FULL.

IT IS ORDERED that Lowry's petition (Doc. 1) is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court shall enter, by separate document, a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 8th day of January, 2019.



Brian Morris
United States District Court Judge